IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

WP(C).No. 36767 of 2004(B)

PETITIONER:

PRABHAKARAN, S/O. ESWARAN,
POTTENKOTTA, MELE CHEMMANNAR,
CHATHURANGAPARA, IDUKKI DISTRICT.

BY ADV. SRI.JOY C. PAUL
SRI.BENOY K.KADAVAN

RESPONDENTS:

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1. DISTRICT KHADI & VILLAGE INDUSTRIES,
THODUPUZHA, IDUKKI.

2. TAHASILDAR (R.R.), NEDUMKANDAM.

BY ADV. SRI.V.V.JOSHI, SC, KHADI BOARD
ADV. SHRI.K.P.HARISH, SC
ADV. SHRI. PRADEEP, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 36767/2004

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE NOTICE ISSUED TO THE PETITIONER DATED NIL.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 36767 of 2004

Dated, this the 13th day of November, 2007

J U D G M E N T

Heard learned counsel for the petitioner and learned standing counsel for the first respondent and learned Government Pleader.

2. Petitioner's son availed a loan from the 1st respondent Khadi & Village Industries for starting an industry in the year 1998. Petitioner mortgaged his property towards security for the loan. This writ petition is filed challenging the revenue recovery proceedings. Even though this Court granted conditional stay order against the same, petitioner did not make the payment and therefore, he didn't get the benefit of stay.

3. Learned Government Pleader reported that part of the property was notified for sale and since there was no bidder, Government purchased the property for Re.1/- on 16/03/2004. He further submitted that even though balance property was notified for sale on 06/01/2005, there was no bidder for the said property also.

4. The property is stated to be 1.3 hectors in Udumbanchola Taluk. Learned counsel for the petitioner submits

that, this is the only property, the petitioner has. Obviously, the property is of low value and that is the reason why there is no bidder in revenue sale. Even though recovery can be legally continued against the petitioner, I feel petitioner can be given some incentives for settling the liability by himself because the respondents in the course of three years could not sell the property for recovering the arrears. Since there is no bidder for the subsequent auction also, there is no likelihood of the property getting sold at anywhere near the debt amount. In the circumstances, I waive interest completely and give an opportunity to the petitioner to settle the liability by sale of part of the property by himself and remit the entire loan amount without interest before the 1st respondent. Petitioner is given time till 31/01/2008 to settle liability by remitting the loan amount without interest. If payment is made, the sale made on 16/03/2004 will stand cancelled, and the Tahsildar will withdraw the attachment, on production of the receipt of payment made by the petitioner before the 1st respondent.

5. However, if petitioner does not make payment to settle the liability, there will be direction to the 2nd respondent to notify the balance property for sale and if there is no bidder to purchase

the property at notional value, dispossess the petitioner from the property to enable the District Collector to use the property for any purpose for the Government.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg